THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION No.14162 of 2004

Dated 06-02-2006

Between:

P. Sugandhamma.

..... PETITIONER

AND

The Joint Collector, Mahaboob District, and another.

.....RESPONDENTS

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION No.14162 of 2004

O R D E R:

The petitioner was appointed as a dealer of fair price shop of Shabad Village of Itikyal Mandal in the year 1996. Subsequently she got married and as per the local enquiry conducted by the Mandal Revenue Inspector on 27-02-2002, it was found that she was living with her husband at Hyderabad and accordingly on 01-03-2002, the petitioner was served with a show-cause notice calling upon her to explain the allegation. The petitioner submitted her explanation dated 27-03-2002 admitting the fact of her marriage in the month of May, 2001 and requested to excuse her for her absence in the Village on medical grounds and also furnished a medical certificate issued by the Assistant Professor of Obstetrics, Kurnool. Having accepted the explanation, the Revenue Divisional Officer, Gadwal, by proceedings dated 22-10-2002, imposed a fine of Rs.200/- and warned the petitioner to be careful in future. However, since there were constant representations against the petitioner, the matter was again got enquired into and on the basis of the report of the Mandal Revenue Officer it was concluded that the petitioner was not residing in the Village and that she had violated the orders issued in G.O.Ms.No.198 as well as the provisions of the Andhra Pradesh State Public Distribution System Control Order, 2001. Accordingly, the Revenue Divisional Officer by order dated 27-03-2003 cancelled the authorization of the petitioner. Aggrieved by the same the petitioner preferred an appeal before the Joint Collector, Mahaboobnagar,

however, the same was dismissed by order dated 26-06-2004 thereby confirming the order of cancellation. Hence, this writ petition.

I have heard the learned counsel for both the parties and perused the material on record.

The petitioner contends that the order of cancellation dated 27-03-2003 was passed without affording an opportunity to her to rebut the allegation that she was not residing in the Village.

A mere perusal of the impugned order of cancellation dated 27-03-2003 shows that the said order was passed on the basis of a report submitted by the Mandal Revenue Officer and the Panchanama conducted in the Village. Even in the counter-affidavit filed by the Revenue Divisional Officer, Gadwal, it is stated that no proceedings were issued and no fresh enquiry was conducted but on the basis of the earlier enquiry held in the year 2002, it was concluded that the petitioner was not residing in the Village. It is relevant to note that even in her explanation to the earlier proceedings the petitioner stated that she could not be present in the Village due to medical grounds. Having accepted the same, a penalty of Rs.200/- was imposed and she was warned to be careful in future. If that be so, if there are any fresh complaints as to the alleged absence of the petitioner in the Village, the respondents ought to have issued a show-cause notice thereby affording an opportunity to her to put-forth her version. Since admittedly, no such opportunity was afforded to her, the impugned order of cancellation dated 27-03-2003 is illegal and in violation of principles of natural justice. Even the Appellate Authority failed to consider the said aspect and dismissed the appeal observing that she failed to answer the fundamental questions relating to maintenance of fair price shop and that she was grossly ignorant of her duties. The said procedure adopted by the Appellate Authority is not in accordance with law and cannot be accepted.

In the circumstances, the impugned order dated 27-03-2003, as confirmed by the Joint Collector by order dated 26-06-2004, being

arbitrary and illegal, is set aside and the writ petition is disposed of leaving it open to the respondents to initiate fresh proceedings if they so choose. No costs.

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(G. ROHINI, J)

Date:06-02-2006

ghn